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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/931,668	08/16/2001	Andrew Michael Pelletier	GEMS:0055--1/YOD 31-PN-62	3806

7590

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EXAMINER

BOCKELMAN, MARK

ART UNIT

PAPER NUMBER

3762

DATE MAILED: 12/31/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/931,668

Applicant(s)

PELLETIER ET AL.

Examiner

Mark W Bockelman

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3762

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 09 September 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 16-19, 21-32, 34 and 35 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 16-19, 21-32, 34 and 35 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

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## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 16-19, 21-32 and 34-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gat USPN 5,954,663 in view of De la Hueraga et al USPN 5,903,889 or vice versa.

Gat teaches a hospital system for collecting and archiving fetal heart signal data using fetal sensors 12 as a means for monitoring the fetal heart condition. Gat does not expressly teach the use of a general purpose network presentation that may be retrieved by a general purpose computer and a browser to display the presentation. De la Hueraga on the other hand teaches a archiving system for patient data, and specifically heart ECG data as demonstrated in figure 9. The data is generally shown on a patient page, similar to that of a "home page" for a website (column 4, lines 55-68): As shown, the page may have hypertext markup language links to various ECG data which stored and retrieved with the same means as applicant, namely applets, browser extensions, and a cd rom that is assessable to various health care professionals in various hospitals. In addition, ecg presentation retrieval can be made use of a personal computer

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(column 6 lines 25-27). While De La Huerga does not expressly teach the real time update of personal data, such a technique is taught by primary reference to Gat so that health care workers may be apprised of the patient's current conditions. In regard to real-time retransmission of data, it is well known to provide real-time update and retransmission of data page refreshing has been customary for quite some time to apprise the viewer of the most up to date data. For instance, websites displaying up to the moment scores frequently refresh data. The technique and its advantages are well known to the common laymen Both Gat and De La Huerga teach the retrieval of historical records as well as the use of graphic displays for the data.

The examiner considers it obvious to have modified the archiving system of Gat, with the archiving system of De La Huerga specially because, De La Huerga specifically teaches the advantages of conventional website storage of data presentations over central station arrangements such as that of Gat in the De La Huerga Background of the invention. Section. Such arrangements are more accessible to other health care providers and can be implemented using inexpensive software packages (column 2 line 50) rather than expensive communication systems that may require hard wiring a particular facility.

3. Applicant's arguments with respect to claims 16-19, 21-32 and 34-35 have been considered but are moot in view of the new ground(s) of rejection.

The examiner notes that many of applicant's arguments are directed to a perceived lack of identifying elements on behalf of the examiner in the last office action. The examiner believes that

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all such limitations have been addressed in this office action and welcomes applicant's representative to telephone the examiner regarding any such oversights in this office action.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark Bockelman whose telephone number is (703) 308-2112. The examiner can normally be reached on Monday through Friday from 9:30 am to 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Angela Sykes, can be reached on (703) 308-5181. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-3591.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0858.

MWB

December 30, 2002

**MARK BOCKELMAN**  
**PRIMARY EXAMINER**